

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, AHMEDABAD
BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

ITA No. 828/Ahd/2019
(Assessment Year: 2012-13)

Late Shri Chhatrasingh J. Vaghela, Through L/H Kamlaben C. Vaghela, At & Post : Sargasan, Sargasan, Gandhinagar-382421 [PAN : ATNPV 4710 C]	Vs.	Income-Tax Officer, Ward-1, Gandhinagar
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(Appellant)	..	(Respondent)
Appellant by :		Shri Parimalsinh B. Parmar, AR
Respondent by:		Shri B.P. Srivastava, Sr DR
Date of Hearing		29.09.2025
Date of Pronouncement		30.09.2025

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-

This appeal has been filed by the assessee against the order dated 05.09.2017 passed by the Ld. Commissioner of Income-Tax (Appeals), Gandhinagar, Ahmedabad ('Ld. CIT(A)' in short), under Section 250 of the Income-tax Act, 1961 ('the Act' in short), for Assessment Year 2012-13.

2. The assessee has raised following grounds in this appeal :-

“(1) That on facts, and in law, the learned CIT(A) has grievously erred in not giving sufficient and reasonable opportunity of hearing to the appellant and in deciding the appeal ex-parte.

(2) That on facts, and in law, the learned CIT(A) has grievously erred in confirming the addition of Rs.6,32,995/- made towards computation of LTCG by adopting a different FMV as on 01/04/1981.

(2) That on facts, and in law, the learned CIT(A) has grievously erred in confirming the addition of Rs. 28,94,410/- made by disallowing the claim of deduction u/s 54B of the Act.

(3) That on facts, in law, and on evidence on record, the entire addition ought to have been deleted, as prayed for."

3. In this case, the assessee, Late Shri Chhatrasinh J. Vaghela, was a co-owner of agricultural land situated at Saragasan, Gandhinagar, which was sold on 14.10./2011 for a total consideration of Rs. 11,25,62,000/- along with other co-owners. The return of income was filed on 30.03.2014 under section 139(4) of the Act, within the permissible time limit under the law then applicable. The Assessing Officer issued notice under section 148 of the Act dated 19.12.2014 for AY 2012-13 on the grounds that the assessee had not filed the return of income and that verification of capital gain and other income was required. Pursuant to this, the Assessing Officer completed the assessment under section 143(3) r.w.s. 147 of the Act by computing Long Term Capital Gain (LTCG) and denying deduction u/s 54B of the Act. The CIT(A) confirmed the additions made by the Assessing Officer *ex-parte*, without granting sufficient opportunity to the legal heir of the deceased assessee.

4. Heard the arguments of both the parties and perused the material available on record.

4.1 We find that the notice issued under section 148 of the Act reads as under:-

"Date : 19/12/2014

.....

Whereas I have reason to believe that your income/the income of A.Y. 2012-13 in respect of which you are assessable chargeable to tax for the assessment year 2012-13 has escaped assessment within the meaning of Section 147 of the Income Tax Act, 1961

I, therefore, propose to assess/reassess the income/re-compute loss/depreciation allowance for the said assessment year and I hereby require to deliver to me within 30 days from the date of service of this notice, a return in the prescribed form of your income/the income of AY 2012-13 in respect of which you are assessable chargeable to tax for the said assessment year.

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Sd/-

(G.G.THAKER)
INCOME TAX OFFICER,
WARD-1 GANDHINAGAR

Encl.: Reason Recorded.”

4.2 Reasons recorded before issue of notice u/s 148 of the IT Act, 1961 is as under:-

1 Name	:	Shri Chhatrasingh J. Vaghela
Address	:	At & Post Saragasan, Tal & Dist Gandhinagar
2. Permanent Number Account:	:	
3. AY	:	2012-13

As per data available with this office, the assessee. Shri Chhatrasingh J. Vaghela has sold the immovable property (Non Agriculture Land) situated at Block/Survey No 394's 17503 Sr. Mtr., TP Scheme No. 7's Final Plot No.97s 11363 Sr. Mtr. Village Saragasan, Dist. Gandhinagar along with other 6 co owners for Rs 11,25,62,000/- and the same is registered with SR-Gandhinagar GDR12155/1/26/2011 (page 1 to 26) on 14/10/2011. **The assessee has not filed the return of income, therefore with a view to verifying calculation of capital gain and other income.** Therefore, I have reason to believe that the income chargeable to tax had escaped assessment to that extent, for A.Y 2012-13, within the meaning of Section 147 of the Act. Hence, in my opinion, this is a fit case for re-opening of assessment u/s.147 of the I.T. Act, 1961.

Date: 19/12/2014

Sd/-

(G.G.THAKER)
INCOME TAX OFFICER,
WARD-1 GANDHINAGAR”

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INDIAN INCOME TAX RETURN VERIFICATION FORM

FORM ITR-V [Where the data of the Return of Income in Benefits in Form (ITR-1 (SAHAJ), ITR-2, ITR-3, ITR-4, ITR-4S (SUGAM), ITR-5, ITR-6 transmitted electronically without digital signature) .
(Please see Rule 12 of the Income-tax Rules, 1962)

Assessment Year
2012 - 13

PERSONAL INFORMATION AND THE DATE OF ELECTRONIC TRANSMISSION	
Name CHHATRASINH JAVANJI VAGHELA	PAN ATNPV4710C
Flat/Door/Block No	Name Of Premises/Building/Village AT SARGASAN
Road/Street/Post Office	Area/Locality GANDHINAGAR
Town/City/District GANDHINAGAR	State GUJARAT
Pin 382001	Status Individual
Designation of AO (Ward / Circle) ITO WD 2 GANDHINAGAR	Original or Revised ORIGINAL
E-filing Acknowledgement Number 161859050300314	Date(DD-MM-YYYY) 30-03-2014

COMPUTATION OF INCOME AND TAX THEREON	
1 Gross Total Income	1 107093
2 Deductions under Chapter-VI-A	2 0
3 Total Income	3 107090
a Current Year loss, if any	3a 0
4 Net Tax Payable	4 0
5 Interest Payable	5 0
6 Total Tax and Interest Payable	6 0
7 Taxes Paid	7 0
a Advance Tax	7a 0
b TDS	7b 0
c TCS	7c 0
d Self Assessment Tax	7d 0
e Total Taxes Paid (7a+7b+7c +7d)	7e 0
8 Tax Payable (6-7e)	8 0
9 Refund (7e-6)	9 0

VERIFICATION

I, CHHATRASINH JAVANJI VAGHI son/ daughter of JAVANJI VAGHELA, holding permanent account number ATNPV4710C
solemnly declare to the best of my knowledge and belief, the information given in the return and the schedules thereto which have been transmitted electronically by me vide acknowledgement number mentioned above is correct and complete and that the amount of total income/ fringe benefits and other particulars shown therein are truly stated and are in accordance with the provisions of the Income-tax Act, 1961, in respect of income and fringe benefits chargeable to income-tax for the previous year relevant to the assessment year 2012-13. I further declare that I am making this return in my capacity as and I am also competent to make this return and verify it.
Sign here ED JSC Date 30-03-2014 Place GANDHINAGAR
If the return has been prepared by a Tax Return Preparer (TRP) give further details as below:
Identification No. of TRP _____ Name of TRP _____ Counter Signature of TRP _____
For Office Use Only
Receipt No _____ Filed from IP address 117.223.132.39
Date _____
Seal and signature of receiving official _____
ATNPV4710C02181859050300314A7A30774AB2F43ADEB6320C7B418B3E5502955A

Please furnish Form ITR-V to "Income Tax Department - CPC, Post Bag No - 1, Electronic City Post Office, Bengaluru - 560100, Karnataka", by ORDINARY POST OR SPEED POST ONLY, within 120 days from date of transmitting the data electronically. Form ITR-V shall not be received in any other office of the Income-tax Department or in any other manner. The receipt of this ITR-V at ITD-CPC will be sent to you at e-mail address vpatelandeo@gmail.com

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Name : CHHATRASINH JAVANJI VAGHELA
Father's Name : JAVANJI VAGHELA
Address(O) : AT SARGASAN, GANDHINAGAR, GANDHINAGAR, GUJARAT-382001
Mobile No. : 9624095754
Permanent Account No : ATNPV4710C
Sex : Male
Status : Individual
Previous year : 2011-2012
Ward/Circle : ITO WD 2 GANDHINAGAR
Date of Birth : 01/06/1961
Resident Status : Resident
Assessment Year : 2012-2013
Return : ORIGINAL
Code :- AA-53

Name of the Bank	MICR Code	Address of Bank Branch	Type of Account	Account Number	ECS(Y/N)
SYNDICATE BANK	380025019	ARMY CANTT, GANDHINAGAR	Saving	7081220001982 2	No

Computation of Total Income

Income Heads	Income Before Set off	Income After Set off
Income from Other Sources	107093	107093
Gross Total Income		107093
Less : Deduction under Chapter VIA		0
Total Income		107093
Rounding off u/s 288A		107090
Income Taxable at Normal Rate	107090	
Income Taxable at Special Rate		
Agricultural Income		
	91580	

TAX CALCULATION

Tax Payable	
Amount Payable	0
Tax Rounded Off u/s 288 B	0

COMPREHENSIVE DETAIL

Exempted Income	Section	Amount
Capital gain Arises on transfer of Agri. Land (Where specific Condition Fulfilled)	10 (37)	2143455
		2143455

Income From Capital Gain(s)	0	0
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Income From LT Cap.Gain (as per annex. attached)	0	
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Income From Other Sources		
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Interest on Bank Savings S/B. INTEREST	46543	46543
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Other Income MILK TRADING INCOME	60550	60550
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Total Income	107093	
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Statement of LT Capital Gain

S n Particulars	Sale Date	Sale Consider	Purchase Date	Purchase Cost	Index Cost	Exemption	Exp	Gain/Loss
1 LTCG GAIN (LAND)(Other Assets) Exemption Detail (54B) Exemption Detail (54F)	18/05/2011	3696500	10/06/1981	82500	647625	3048875 2825230 223645	0	0
							Total	0

Return Filing Due Date : 31/08/2012

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4.3 We find that the primary reason recorded by the Assessing Officer for reopening the case was that the assessee had not filed a return of income despite having sold immovable property. However, it is an undisputed fact on record that the assessee had already filed his return of income on 30.03.2014 under section 139(4), prior to the issuance of notice under section 148 dated 19.12.2014. The capital gains have been duly computed as per the return filed. Therefore, the foundational jurisdictional fact stated by the Assessing Officer that no return was filed is factually incorrect. It is a settled position of law that if the very basis of reopening is factually incorrect, such reopening is bad in law. Therefore, the reopening of assessment u/s 147 in the present case is invalid and without jurisdiction, and hence, the assessment liable to be quashed.

4.4 Since we have already held that the reopening is bad in law and the entire assessment is quashed, grounds challenging the additions on merit become academic in nature and require no adjudication at this stage.

5. In the result, the appeal of the assessee is allowed.

The order is pronounced in the open Court on 30.09.2025.

Sd/-

(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

Ahmedabad; Dated 30.09.2025

***btk*

Sd/-

(DR. B.R.R. KUMAR)
VICE-PRESIDENT

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

True Copy

सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad